

**DOCKET NO. D-2012-010 CP-1**

**DELAWARE RIVER BASIN COMMISSION**

**Eagle Point Power Generation, LLC  
A Subsidiary of Rockland Capital  
Eagle Point Cogeneration Facility  
Surface Water Withdrawal  
West Deptford Township, Gloucester County, New Jersey**

**PROCEEDINGS**

This docket is issued in response to an Application submitted by Eagle Point Power Generation, LLC (EPP or docket holder), a subsidiary of Rockland Capital, to the Delaware River Basin Commission (DRBC or Commission) on March 19, 2012, for inclusion of the existing Eagle Point Cogeneration Facility (EPCF) into the Comprehensive Plan and approval of an existing surface water withdrawal to provide cooling water to the EPCF (Application). The New Jersey Department of Environmental Protection (NJDEP) approved Water Allocation Permit (WAP) No. 2205P on September 29, 2006 for all water withdrawals related to the Sunoco, Inc. R&M (Sunoco) Eagle Point Facility. Sunoco sold the Eagle Point Facility to Sunoco Partners Marketing & Terminals L.P. – Eagle Point Tank Farm (Sunoco Logistics) on July 1, 2011. Intake No. DK-3 is part of the WAP approval and the docket holder has submitted an application to the NJDEP to transfer ownership of the intake from Sunoco Logistics. A minor modification of WAP No. 2612P was issued by the NJDEP on November 1, 2012 as a result of the sale to reflect the transfer of ownership.

The Application was reviewed for inclusion in the Comprehensive Plan and for approval under Section 3.8 of the *Delaware River Basin Compact*. The Gloucester County Planning Board has been notified of pending action on this docket. A public hearing on this project was held by the DRBC on December 5, 2012.

**A. DESCRIPTION**

1. **Purpose.** The purpose of this docket is to incorporate the EPCF into the Comprehensive Plan and approve a surface water allocation of up to 110.234 million gallons per month (mgm) from Intake No. DK-3 to provide cooling water to the EPCF. This docket also approves minor maintenance work on the intake that includes clearing debris and installing a water meter.

2. **Location.** Intake No. DK-3 is located on the Delaware River in Water Quality Zone 4 and was previously operated by Sunoco Logistics. The EPFC is located in West Deptford Township, Gloucester County, New Jersey. Specific location information has been withheld for security reasons.

3. **Area Served.** Electricity produced by the EPCF is used to supply the Pennsylvania-Jersey-Maryland (PJM) grid. Water withdrawn from Intake No. DK-3 will be used only at the EPCF for cooling water purposes. For the purpose of defining Area Served, the Application is incorporated herein by reference consistent with conditions contained in the DECISION Section of this docket.

4. **Physical features.**

a. **Design criteria.** The docket holder shall continue to operate the EPCF, which supplies electricity to the PJM grid. The EPCF currently withdrawals 2.88 million gallons per day (mgd) of water from the Delaware River via Intake No. DK-3 on average and 4.176 mgd as a maximum. The 10-year average and maximum water demand is expected to increase to 3.675 mgd and 5.328 mgd, respectively. The allocation of 110.234 mgm represents the allocation that was transferred from WAP No. 2205P through the minor modification and should be sufficient to meet the future demands of the EPCF.

Clearing of debris and other maintenance work at the intake shall be performed as a result of this docket approval. The installation of a water meter shall also occur.

b. **Facilities.** Intake No. Dock 3 has the following characteristics:

INTAKE NO.	WITHDRAWAL WATER BODY	PUMP CAPACITY (MGD)	7Q10 FLOW AT INTAKE (CFS)	YEAR CONSTRUCTED
DK-3	Delaware River	5.328	3,255	1948

Minor modifications will be made to Intake No. DK-3 as part of this approval. The installation of a meter tracking total water withdrawn is one of those modifications.

Prior to entering the distribution system, the water will be filtered to remove suspended solids.

The project is located in the tidal area of the Delaware River and therefore the Commission's *Flood Plain Regulations* do not apply.

c. **Other.** Wastewater is conveyed to the Sunoco Logistics, Eagle Point industrial wastewater treatment plant (IWTP). The IWTP was approved via DRBC Dockets Nos. D-68-53 and 76-9 on October 31, 1973 and May 16, 1979, respectively. Renewal of this approval is also being heard at the December 5, 2012 Hearing under Docket No. D-1968-053-2, which will combine the prior two approvals.

The NJDEP issued New Jersey Pollutant Discharge Elimination System (NJPDES) Permit No. NJ0005401 on October 12, 2005 for this treatment facility. Renewal of this NJPDES Permit is expected shortly.

**d. Cost.** There are no construction costs associated with the existing EPCF. Maintenance work is expected to cost less than \$250,000, eliminating review fees based upon project costs.

**e. Relationship to the Comprehensive Plan.** The EPCF was constructed in the late 1940s and early 1950s. Approval of this docket will include the EPCF into the Comprehensive Plan.

## **B. FINDINGS**

The purpose of this docket is to incorporate the EPCF into the Comprehensive Plan and approve a surface water allocation of up to 110.234 mgm from Intake No. DK-3 to provide cooling water to the EPCF. The docket holder has informed Commission staff that minor maintenance work is necessary on the existing intake and will be performed as part of this docket approval.

WAP No. 2612P, issued by NJDEP on November 1, 2012, approved withdrawal limits of 110.234 mgm, 1,322.76 million gallons per year (mgy), and at a maximum pumping rate of 3,700 gallons per minute (gpm) as agreed upon by Sunoco Logistics and the docket holder. Although the docket holder requested an allocation of 159.84 million gallons per 30 days of water from Intake No. DK-3, this docket limits the monthly withdrawal to 110.234 mg, as provided in NJDEP WAP No. 2612P. WAP No. 2612P was issued with a provision allowing Sunoco Logistics to withdraw water from Intake No. DK-3 for emergency fire protection. Any water used for emergency fire protection by Sunoco Logistics will be metered separately and reported by Sunoco Logistics and not count against the docket holder's allocation.

The DRBC estimates that the project withdrawals, used for the purpose of cooling water, result in a consumptive use of nineteen percent (19%) of the total water use. The DRBC definition of consumptive use is defined in Article 5.5.1.D of the *Administrative Manual – Part III – Basin Regulations – Water Supply Charges*.

Coastal Eagle Point Oil Company sold the EPCF to Sunoco on December 22, 2003. Sunoco sold the EPCF to Sunoco Logistics on July 1, 2011. Sunoco Logistics sold the EPCF to EPP on April 2, 2012.

Section 2.3.5.1 C. of the Commission's *Rules of Practice and Procedure (RPP)*, requires industrial and commercial water withdrawals in excess of one million gallons per day to develop a contingency plan including emergency conservation measures to be instituted in the event of a Commission declared drought or other water shortage. Resolution No. 83-14 amended the Commission's *Water Code* (Section 2.1.4) to include the conservation goal of a 15 percent reduction in depletive use during drought conditions. Hereafter referred to as drought

management and contingency plans (DMCPs), DMCPs must contain the following: source of water supply; the average daily and monthly peak water withdrawal; average daily and peak monthly consumptive use (difference between quantity withdrawn and quantity returned to the ground or surface waters of the basin); description of recycling and conservation measures; point of discharge (where water is returned or discharged); types of products produced; normal employment levels (numbers); and estimated employment (numbers) and economic impact for curtailment of water usage for the following levels of curtailment: 10%; 25%; 35%; 50% and 100%. The DMCP shall be submitted to the Commission within 6 months (by June 5, 2013) of the docket approval date. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director (See DECISION Condition II.h.).

In addition, for this facility the DMCP must include the alternative water sources that the facility has investigated and considered to meet its consumptive use demands.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The project is designed to conform to the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

### C. DECISION

I. Effective on the approval date for Docket No. D-2012-010 CP-1 below, the project and the appurtenant facilities described in Section A “Physical Features” shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in Section A “Physical Features” are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the NJDEP in its WAP Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission’s.

b. The intake and operational records shall be available at all times for inspection by the DRBC.

c. The intake shall be operated at all times to comply with the requirements of the *Water Code* and *Water Quality Regulations* of the DRBC.

d. During any month, the withdrawal from Intake No. DK-3 for use at the EPCF shall not exceed 110.234 million gallons. The intake shall not be pumped above the

maximum instantaneous rate and monthly allocation as indicated below except for fire protection purposes as described in the FINDINGS Section of this docket:

<b>INTAKE NO.</b>	<b>MAXIMUM INSTANTANEOUS RATE (GPM)</b>	<b>MONTHLY ALLOCATION (MILLION GALLONS)</b>
DK-3	3,700	110.234

In addition, the withdrawal from Intake No. DK-3 shall not exceed 1,322.76 mgd. Pursuant to an agreement between the docket holder and Sunoco Logistics, Sunoco Logistics may withdraw water from Intake No. DK-3 for emergency fire protection purposes. Any water used for emergency fire protection by Sunoco Logistics shall be metered separately and reported by Sunoco Logistics and shall not be counted against the withdrawal limits imposed by this DECISION Condition (See DECISION Condition II.e. of Docket No. D-1986-015-4).

e. The docket holder shall pay for surface water use in accordance with the provisions of Resolution No. 74-6, as amended. The docket holder shall not be required to pay fees for any withdraw of water from Intake No. DK-3 that Sunoco Logistics performs for emergency fire protection.

f. The project withdrawal shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the 5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the NJDEP quarterly and shall be available at any time to the Commission if requested by the Executive Director.

g. No water service connections shall be made to newly constructed premises with plumbing fixtures and fittings that do not comply with water conservation performance standards contained in Resolution No. 88-2 (Revision 2).

h. The docket holder shall prepare and submit a DMCP to the Commission within 6 months (by June 5, 2013) of docket approval. The Executive Director shall review the DMCP and either require modifications or provide approval in writing if the DMCP is found to be in accordance with the Commission requirements. The docket holder shall implement the DMCP upon direction by the Executive Director.

i. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

j. The docket holder is permitted to provide the water approved in this docket to the areas included in Section A.3. Area Served of this docket. Any expansion beyond those included in Section A.3. Area Served is subject to DRBC review and approval in accordance with Section 3.8 of the *Compact*.

k. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission's Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

l. The issuance of this docket approval shall not create any private or proprietary rights in the water of the Basin, and the Commission reserves the rights to amend, alter or rescind any actions taken hereunder in order to insure the proper control, use and management of the water resources of the Basin.

m. If the monitoring required herein, or any other data or information demonstrates that the operation of this project significantly affects or interferes with any domestic or other existing uses of ground or surface water, or if the docket holder receives a complaint by any existing ground or surface water users within the zone of influence of the withdrawal, the docket holder shall immediately notify the Executive Director of any complaints by any ground or surface users within the zone of influence of the withdrawal, and unless excused by the Executive Director, shall investigate such complaints. The docket holder should direct phone call notifications of potential well or surface water interference or complaints of interference to the DRBC Project Review Section at 609-883-9500, extension 216. Oral notification must always be followed up in writing directed to the Executive Director. In addition, the docket holder shall provide written notification to all potentially impacted users of wells or surface water supplies of the docket holder's responsibilities under this condition. Any ground or surface water user which is substantially adversely affected, rendered dry or otherwise diminished as a result of the docket holder's project withdrawal, shall be repaired, replaced or otherwise mitigated at the expense of the docket holder. A report of investigation and/or mitigation plan prepared by a hydrologist shall be submitted to the Executive Director as soon as practicable. The Executive Director shall make the final determination regarding the validity of such complaints, the scope or sufficiency of such investigations, and the extent of appropriate mitigation measures, if required.

n. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

o. During any water emergency or other non-emergency declaration by the Governor of New Jersey, NJDEP or the Commission, water service or use by the project docket holder pursuant to this docket approval shall be subject to any order or restriction governing

those non-essential uses specified by the NJDEP to the extent that they may be applicable, and to any other emergency resolutions or orders adopted by the Commission.

p. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

**BY THE COMMISSION**

**APPROVAL DATE: December 5, 2012**

**EXPIRATION DATE: December 5, 2022**